United Nations S/2001/1251

Security Council

Distr.: General
28 December 2001
English
Original: French

Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Finland, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 21 December 2001 from Chargé d'Affaires a.i. of Finland to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Representative of Finland to the United Nations presents her compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and, with reference to note SCA/20/01(6), has the honour to submit herewith the report presenting the measures the Government of Finland has taken to implement resolution 1373 (2001) (see enclosure).

(*Signed*) Anna-Maija **Korpi**
Ambassador
Chargé d'affaires a.i.

Enclosure

Report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council Resolution 1373 (2001) of 28 September 2001*

FINLAND

Finland condemns terrorism in all its forms. Terrorism is a threat to the implementation of human rights, democracy and the rule of law as well as to international peace and security. Finland underlines the importance of international cooperation, collective action, and respect for human rights and for the rule of law in the combat against terrorism, including the following measures:

- bringing those responsible for terrorist acts to justice
- strengthening the role of the United Nations conventions against terrorism
- strengthening transatlantic cooperation to combat terrorism (exchange of information, effective cooperation between the competent authorities, cooperation in the suppression of the financing of terrorism)
- concentration on efforts to resolve regional conflicts (in particular the conflict in the Middle East)
- strengthening the system of international law
- in the long run, eradication of poverty and enhancement of good governance, democracy and respect for human rights, in order to eliminate ground for terrorism
- strengthening the international instruments concerning arms control and weapons of mass destruction
- ensuring a central role for the UN Security Council in action against terrorism

Operative paragraph 1

sub-paragraph (a) — ***What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to question on 1 (b) to (d)?***

Finland is a member of the Financial Action Task Force on Money Laundering (FATF). The special recommendations on terrorist financing adopted by the FATF on 29-30 October 2001, together with the Forty Recommendations of the FATF, set out the basic framework for detecting, preventing and suppressing the financing of terrorism. The existing Finnish legislation meets the requirements of the Forty Recommendations. A review of the existing legislation for the purpose of implementing the special recommendations is underway. Proposals for the necessary legislative amendments will be introduced to Parliament in the spring of 2002.

The Finnish penal provisions concerning money laundering can in certain limited cases be already now applied to the financing of terrorism. The current Money Laundering Act (MLA) does not, however, allow the freezing of suspected terrorist funds unless investigation concerning suspected money laundering is pending.

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* Comprehensive information on measures taken jointly by the European Union is contained in the report submitted by the European Union.

The implementation of the 2nd EU Money Laundering Directive is also underway. The predicate offence for the Money Laundering Act may be any offence. However, under the existing MLA, the reporting obligation only applies to situations where the origin of funds is suspected. The MLA is being amended in order to extend the reporting obligation to situations where funding of terrorism is suspected. Also the provisions concerning exchange of information between Financial Inspection Units and other authorities will be reviewed in this context.

See also responses under sub-paragraphs 1 (b), (c) and (d).

subparagraph (b) – ***What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?***

The existing Finnish Penal Code contains no specific provisions on terrorist acts. Thus, such acts would fall under the scope of the provisions of Chapter 34, concerning endangerment offences. The applicable penal provisions include but are not limited to those on aggravated criminal mischief, aggravated health endangerment and hijacking. Persons guilty of provision or collection of funds for such offences would mainly be punished under the provisions on participation, provided that the offence in question is actually committed. The sentence imposed for aiding or abetting would be more lenient than the one imposed on the person who commits the offence. The maximum sentence for aiding in respect of aggravated criminal mischief, aggravated health endangerment and hijacking is imprisonment for 7 years and 6 months. See also response under sub-paragraph 2 (e).

Preparations are underway to add to the Penal Code an explicit provision prohibiting wilful provision or collection, by any means, directly or indirectly, of funds with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. This will also enable Finland to ratify the International Convention for the Suppression of the Financing of Terrorism. The ratification of the Convention and the related amendments to the Penal Code are scheduled to be completed during the first half of 2002. A more comprehensive review of Chapter 34 of the Penal Code in order to add specific provisions on terrorist offences will take place in 2002 in the context of the national implementation of the Framework Decision on Terrorism of the European Union.

sub-paragraph (c) – ***What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.***

As a general rule, the imposition of financial sanctions and the implementation of the United Nations Security Council resolutions imposing financial sanctions fall within the competence of the European Community. The respective UN resolutions are implemented in the Community through Council regulations which are directly applicable legislation in the Member States of the European Union.

At the national level sanctions imposed by the UNSC or the EU are implemented by virtue of the Act on the Enforcement of Certain Obligations of Finland as a Member of the United Nations and of the European Union ("general enabling act", 659/1967). The Act authorises the implementation of binding Security Council resolutions and European Union sanctions imposed under certain provisions (articles 60 and 301) of the Treaty establishing the European Union. According to Chapter 46, section 1 (11) of the Finnish Penal Code, a person who violates or attempts to violate a regulatory provision in a sanctions regulation, adopted on the basis of Article 60 or 301 of the Treaty establishing the European Community, shall be sentenced for a regulation offence to a fine or to imprisonment for at most two years.

The Council of the European Union adopted on 6 March 2001 a regulation (Council Regulation (EC) No. 467/2001) implementing the UN Security Council resolution 1333. By virtue of the regulation, the funds and other economic resources of the persons and entities designated by the Security Council Afghanistan Sanctions Committee, and listed in Annex I to the regulation, shall be frozen. Following the decisions made by the Security Council or the Sanctions Committee, the Commission of the European Communities has amended on four occasions the said Annex I to the regulation 467/2001.

To meet the further requirements set by the Security Council resolution 1373, the Council of the European Union agreed on 10 December on a common position and on a regulation constituting the basis for the freezing of funds and other financial assets or economic resources of a natural or legal person, entity or group designated by the Council of the European Union. By virtue of the afore-mentioned instruments, it will also be prohibited to make available any funds and other financial assets or economic resources to the same persons. The EU legislation is envisaged to enter into force in early 2002.

The afore-mentioned Council Regulation will meet with the obligation set out in sub-paragraphs 1. (c) and (d) of the Resolution 1373, and separate national measures will therefore not be necessary in this respect. However, minor amendments to the existing legislation will be needed in order to provide for the sanctions and forfeitures to be imposed for violations of the regulation. Considering that the regulation will be targeted at persons and entities not having connection to any particular third country, it will be adopted not only on the basis of articles 60 and 301 of the Treaty establishing the European Union but also on the basis of article 308 thereof. As the last-mentioned article is not specifically referred to in the above-mentioned general enabling act, such a reference will have to be inserted therein upon entry into force of the regulation. A corresponding amendment will also need to be made to the Penal Code.

sub-paragraph (d) – What measures exist to prohibit the activities listed in this sub-paragraph?

See response under sub-paragraph 1(c).

Operative paragraph 2

sub-paragraph (a) – ***What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?***

Under the existing legislation, the recruitment of persons and the supply of weapons are criminalized insofar as they pertain to the preparation of high treason (Chapter 13, section 3 of the Penal Code). As for recruitment to terrorist groups, the provision on incitement (Chapter 5, section 2 of the Penal Code) is also of relevance. Under that provision "a person who orders, employs, harasses or otherwise intentionally induces or entices another person into an offence shall be punished, if the offence was completed, or constitutes a punishable attempt, for incitement as if that person himself or herself was an offender". New penal provisions on offences relating to a terrorist group will be enacted in Finland in 2002 pursuant to the EU Framework Decision on Terrorism. These provisions will cover inter alia directing of a terrorist organisation as well as participation in the activities of such a group.

Preparations are underway to ratify the Protocol against the Manufacturing of and Trafficking in Illicit Firearms, Ammunition and Related Materials supplementing the UN Convention against

Transnational Organised Crime done in Palermo in 2000. Finland signed the Convention and the first two optional protocols on 12 December 2000. The Firearms Protocol will be signed before the end of the year. A Government Bill to the Parliament on the Palermo Convention package, including the three optional protocols, is expected in 2002. It is intended that the ratification process be completed by 2003, and existing legislation be amended as necessary.

Finland has implemented the 1991 EU directive on the control of the acquisition and possession of weapons and is also committed to the implementation of the OSCE Document on Small Arms and Light Weapons.

Export or transit of defence materiel is subject to specific authorisation (export licence). In addition to the grounds for the issue of export licence laid down in the Act on the Export and Transit of Defence Materiel (242/1990), Finland applies the European Union Code of Conduct for Arms Exports which specifically requires the Member States of the European Union to take into account, inter alia, the record of the buyer country with regard to its support for or encouragement of terrorism and international organised crime. In assessing the impact of the proposed export on the importing country and the risk that exported goods might be diverted to an undesirable end-user, the risk of the arms being re-exported or diverted to terrorist organisations is considered.

In the field of small arms and light weapons Finland is committed to the Programme of Action as a result of the UN Conference to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) as well as to the European Union Joint Action on Small Arms. On the basis of the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms member states will strengthen their collective efforts to prevent and combat illicit trafficking of arms, particularly of small arms, in and through their territories. This includes fostering enhanced cooperation and coordination amongst intelligence, customs and other law enforcement agencies, both at the national and at the international level. The purpose of such co-operation is to ensure adequate customs checks, prompt investigation and effective prosecution in cases of illicit trafficking of arms as well as improving the exchange of information and data on illicit trafficking of arms, e.g. through the use of international data bases and risk analyses.

Finland takes part in international co-operation to control the supply of weapons, including various projects at the international and regional level and has also bilateral co-operation (inter alia UN, EU and OSCE projects in Mozambique, Tanzania, Cambodia and Central Asia).

sub-paragraph (b) – ***What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?***

Finland participates in the exchange of information with other States to prevent the commission of terrorist acts both bilaterally and multilaterally through the EU, including Europol, and Interpol. Measures to intensify such exchange of information within the EU have been referred to in the Report submitted by the European Union.

sub-paragraph (c) – ***What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.***

A foreign national may be refused entry into Finland if the person in question may, on account of prior conviction or other justifiable reasons, be assumed to commit in Finland or in another Nordic country an offence for which the statutory punishment is more than one year of imprisonment (Aliens Act, Section 37, 537/1999). Foreign nationals may be deported or expelled from Finland

in cases referred to in Chapter VI, sections 40 and 41 of the Aliens Act, in compliance with the provisions of the said Act. The pertinent provisions cover cases where the person in question has committed an offence for which the statutory punishment is at least one year of imprisonment, or has repeatedly committed offences, or has demonstrated by his or her behaviour that he or she is a danger to the safety of others.

However, no one may be returned or deported to an area where he or she may be subjected to persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion or where he or she would be under the threat of death penalty, torture or other inhuman or degrading treatment, nor to an area from which he or she could be further sent to such an area.

sub-paragraph (d) – ***What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken***

The applicable provisions are included in Chapter VI of the Aliens Act and Chapter 34, section 9 of the Penal Code (preparation of endangerment). Additional provisions on acts of terrorism as well as terrorism-related offences will be included in the Penal Code in 2002 to make it fully encompass the provisions of the Convention for the Suppression of the Financing of Terrorism as well as the acts referred to in the EU Framework Decision on Terrorism. See also responses under sub-paragraphs 1 (b), 2 (a) and 2 (c).

Under the provisions concerning the scope of application of the Finnish Penal Code, Finnish law shall apply to offences committed on the Finnish territory. Terrorist acts would in most cases be covered by the provisions of Chapter 1, section 7 of the Penal Code and by the Decree on the application of these provisions, and would thereby be considered international offences to which the Finnish Penal Code could be applied irrespective of the place of commission of those offences.

sub-paragraph (e) – ***What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.***

A person who commits endangerment offences may be sentenced to imprisonment for 10 years. In the context of the amendments to be made to the Penal Code in 2002, more severe penalties may be included in the provisions on terrorist acts. See also responses under sub-paragraphs 3 (d) and (e).

sub-paragraph (f) – ***What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice?***

The European Union has introduced an Assistance Programme to improve the capacity of the Palestinian Authority to combat terrorism. Finland will participate in the human rights component of the second phase of the Programme. Reference is also made to the report submitted by the European Union.

sub-paragraph (g) – ***How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?***

Finland participates in the Schengen system which comprises the territories of all EU Member States, except for the United Kingdom and Ireland, as well as the territories of Iceland and Norway. Border checks on travellers have been abolished in all traffic between Schengen States, at

the same time as adequate border controls and a uniform procedure of border checks have been introduced at external borders. The electronic Schengen Information System (SIS) allows quick exchange of information between the Schengen States. The system provides information on persons who are considered to represent a serious threat to internal or external national security in accordance with Article 99 (3) of the Schengen Convention.

The Justice and Home Affairs Council of the European Union decided on 20 September 2001 on measures needed to combat terrorism. The conclusions adopted by the Council include, inter alia, measures relating to the procedures for the issue of visas and to the controls at external borders.

A common visa policy is applied within the European Union. The grounds for the issue of visas are laid down in the Common Consular Instructions on Visas. Increasing attention is being paid in particular to the interviews of persons applying for visas as well as to document security.

The controls at the Finnish borders fully meet the requirements of the Schengen acquis concerning the controls at external borders. Following the conclusions of the Justice and Home Affairs Council, controls at borders have been strengthened and focused, inter alia, by using the existing risk analysis system.

The procedures and techniques used for the identification of falsified travel documents are under constant review. The Finnish Frontier Guard use the latest technology for that purpose. The Frontier Guard has intensified the distribution of information on falsified travel documents. Since May 2001, the Frontier Guard document examination center located at the main airport has provided real-time information (document alert) mainly to the airlines and foreign authorities concerning false travel documents. An electronic database is being used to share information with other national authorities on authentic and false travel documents. The establishment of a similar Europe-wide database is under preparation. The mechanisms to identify persons from e.g. finger-prints is under development.

Operative paragraph 3

sub-paragraph (a) – ***What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?***

Finland participates in the exchange of operational information within the EU, including Europol, and through the Interpol.

In relation to movements of terrorist persons and forged or falsified travel documents, border controls of passengers and their identity and travel documents, regular exchange of information is carried out within co-operation under the Schengen Agreement. See response to question 2 (g).

sub-paragraph (b) – ***What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?***

The Finnish Act on International Legal Assistance in Criminal Matters (Act No 4/1994) provides a flexible basis for cooperation. A request for legal assistance can be made directly to the competent Finnish authority. Finnish courts, prosecutors and investigating authorities may send a request for legal assistance directly to another state. Double criminality is not required for rendering mutual legal assistance, provided that the enforcement of the request does not require the use of coercive means.

The provision of legal assistance is not based on the principle of reciprocity. Nor is it required that the requesting state is a party to any convention on legal assistance. The above-mentioned provisions will be applied without exception to requests relating to terrorist acts.

The UN counter-terrorism conventions to which Finland is a party contain provisions on legal assistance. Finland has bilateral agreements on legal assistance with five countries and is also a party to the European Convention on Mutual Assistance in Criminal Matters.

sub-paragraph (c) – ***What steps have been taken to cooperate in the areas indicated in this sub-paragraph?***

See responses under sub-paragraphs 1 (a) and (b), 2 (a) and (e), 3 (b), (d) and (e). See also the Report submitted by the European Union.

sub-paragraph (d) – ***What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?***

Finland has signed all twelve UN Conventions related to terrorist acts and has ratified ten of them. Finland has also ratified the 1977 European Convention on the Suppression of Terrorism. Finland signed the 1997 International Convention for the Suppression of Terrorist Bombings on 22 January 1998. The Government Bill concerning the ratification of the convention was submitted to Parliament in December 2001. Finland signed the 1999 International Convention for the Suppression of the Financing of Terrorism on 10 January 2000. The necessary amendments to the national legislation required for the ratification of that Convention are being prepared. The ratification of both conventions is scheduled for the first half of 2002. See the attached list of conventions pertaining to terrorism which have been ratified by Finland.

sub-paragraph (e) – ***Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph?***

The criminalizations in the UN conventions and protocols relating to terrorism have been duly incorporated in the Penal Code, Chapter 34, which includes provisions on criminal mischief, criminal traffic mischief, nuclear device offence, preparation of offences causing general danger, false alarm and hijacking. Attempts to commit any such offences are punishable. The general rules of the criminal process apply in these offences. Chapter 25 on Offences against Liberty also covers acts, such as threat and coercion, that are related to acts of terrorism. Detailed provisions on corporate criminal liability is contained in Chapter 9 of the Code.

In accordance with the Finnish legal system all international agreements binding on Finland are incorporated into domestic legislation through an appropriate legislative measure prior to the ratification.

sub-paragraph (f) – ***What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.***

As a general rule, an alien shall be granted asylum in Finland if he or she, owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, resides outside his or her country of origin or habitual residence and, owing to such fear, is unwilling to avail himself or herself of the protection of the said country. Chapter V, section 30 of the Aliens Act provides for the special grounds on which asylum may not be granted, including the commission of a serious offence other than political offence by the alien.

The background of asylum-seekers is investigated where necessary. Such investigation falls under the competence of the Security Police. As regards persons who have been granted asylum, measures may be taken in compliance with the provisions of the Aliens Act, Chapter VI. See also response under sub-paragraph 2 (c) above.

sub-paragraph (g) – ***What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.***

Finland is a party to the 1951 Convention Relating to the Status of Refugees and has incorporated its provisions into national legislation. The Refugee Convention permits the exclusion of a person from refugee status if there are serious reasons to consider i.e. that he or she has committed acts contrary to the purposes and principles of the United Nations (article 1 f c). The UN General Assembly, in the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism (UNGA Res. 51/210), has confirmed that acts of terrorism, knowingly financing, planning or inciting terrorist acts, are contrary to the purposes and principles of the United Nations. Finland interprets the Convention accordingly.

The investigations applied to asylum-seekers are also applicable to refugees. See also responses to 2 (c) and 3 (f).

Acts of terrorism are not considered to constitute political offences under Finnish law. When acceding to the European Convention on the Suppression of Terrorism in 1990, Finland made a reservation allowed by the Convention, concerning extradition in respect of political offences. A Government Bill for the withdrawal of the reservation has been submitted to Parliament in December 2001. It should also be noted that the reservation has never been invoked in practice. There have been no cases since 1990 where extradition would have been refused on the grounds that the offence in question is considered a political offence.

Appendix

United Nations Conventions and Protocols pertaining to international terrorism

(1) Conventions and protocols ratified by Finland

Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963

Convention on the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16 December 1970

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, done at New York on 14 December 1973

International Convention against the Taking of Hostages, done at New York on 17 December 1979

Convention on the Physical Protection of Nuclear Material, done at Vienna on 3 March 1980

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988

Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988

Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991

(2) Conventions signed by Finland

International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1998

International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999